

Remarks

Rejections Under 35 USC 103

Claims 1-11, 14, and 16-25 are rejected as being unpatentable over Persidsky in view of Schiller and further in view of Johner.

According to the Office Action, the subject matter of claim 1 would be obvious over a combination of Persidsky, Schiller and Johner. Applicant agrees with the Office Action that Persidsky fails to teach an absolute determination of the pen position. Applicant further agrees with the Office Action that the feature of an area coding designed as a marking on the writing surface cannot be derived from a combination of Persidsky and Schiller. According to the Office Action, however, the latter feature could be derived from Johner.

In this regard, Applicant respectfully does not share the Office Action's point of view. Johner discloses an optoelectronic reading pen for scanning optically encoded information. According to the abstract of Johner, the information may be a bar or line code. Johner fails to teach that the bar or line code is an area coding, i.e., a coding in which the lateral position of the code is encoded.

Thus, if a person skilled in the art would have combined the features of the pen known from Johner with a writing instrument having the combined features of Persidsky and Schiller, he would derive a pen which is able to determine its position with the mechanism disclosed in Schiller, and which has the ability to read a bar code.

This, however, is not the same as the subject matter of claim 1. Claim 1, rather, defines that the pen position is derived from decoding the area coding. Accordingly, the

subject matter of claim 1 is not obvious over Persidsky in view of Schiller and further in view of Johner.

The same also holds true for independent claims 17 and 21, defining corresponding features and all dependent claims.

Consequently, there appears to be no need for further restriction of the claims even in view of the new art. Applicant respectfully argues that the claims are not obvious over the prior art.

Claims 1, 17 and 21 have been amended to emphasize the distinction between the present application and the cited prior art. Specifically, independent claims 1, 17 and 21 are amended to recite an area coding comprising coding elements which each include a bit sequence for an x-coordinate and a bit sequence for a y-coordinate. Support for this Amendment is found in the specification on page 12, lines 34-38. This Amendment embodies the changes suggested to and described with the Examiner in the telephone interview on May 3, 2007. Applicant wishes to thank the Examiner for the time taken to conduct a telephone interview on May 3, 2007.

Applicant submits this Amendment After Final Action with an RCE and requests that the claims set forth herein be entered for further examination.

A three month extension of time and RCE are requested and paid for (submitted herewith). Please find included herewith a Request for Continued Examination Transmittal, Petition for Extension of Time under 37 CFR 1.136(a) and PTO 2038 authorizing charging a credit card for the fees.

Wherefore, further consideration and allowance of the claims of this application is respectfully requested.

This Amendment After Final Action is necessary to place the claims in condition for allowance or better condition for appeal.

Respectfully submitted,



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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to Mail Stop Amendment after Final Action with RCE and Fee, Art Unit 2629, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 05/08/2007.



M. Robert Kestenbaum